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IN THE CIRCUIT COURT OF APPEALS OF THE UNITED STATES, FOR THE FIFTH CIRCUIT.

To the Honorable Judges of the Fifth Circuit Court of Appeals of the United States:

The petition of Joel W. Lockwood, a resident of the County of Macon in the Western Division of the Southern District of Georgia, within said Fifth Circuit, respectfully shows the following facts:

1st. That on the 23rd day of November, 1900, the said Joel W. Lockwood was on his own application duly adjudged a bankrupt by the District Court of the United States for the Southern District of Georgia. On December 6th, 1900, F. T. Rape was duly appointed trustee for said bankrupt; that on the 16th day of December, 1900, the said F. T. Rape, trustee, set aside and designated as an exemption all of the property returned by the said bankrupt in his schedule of assets. A full and complete copy of said exemption is hereto attached marked "Exhibit A" and made a part of this petition. On the 1st day of January, 1901, the Exchange Bank of Fort Valley, a creditor who had duly proven its debt as an unsecured claim, filed exceptions to the trustee's assignment of homestead and exemption, upon the following grounds:

(a) That said creditor held a contract against the bankrupt in which said bankrupt specially waived and renounced all right to the homestead exemption allowed by the laws of Georgia or the United States. Said waiver is contained in a note constituting contract of indebtedness and was made in accordance with the provisions of the constitution and laws of said state authorizing and empowering the debtor to waive and renounce in writing his right to the benefit of the exemption provided for by the constitution and laws of said state.

(b) That creditor's debt was unsecured save and except so far as a waiver of homestead and exemption may be construed as a security.

2

(c) That the trustee has set apart all the property of said bankrupt returned by him in bankruptcy.

(d) Under the laws of Georgia, the debtor's exemption cannot be subjected to the payment of a debt containing a waiver of homestead except by putting said debt in judgment, and afterwards causing execution to issue thereon to be levied on the exempt property in accordance with the provisions of section 2850, et seq., of the Code of Georgia. If Bankrupt Court should approve trustee's assignment in this case without reserving to petitioner the right to sue his claim and put same in judgment, and without itself giving judgment for said debt,

creditor would be left without means of enforcing his rights creating and arising out of the aforesaid waiver and would be without remedy.

(e) Creditor therefore prays equitable relief and such decree as will protect his rights, that the homestead be set aside and trustee be required to take charge of and administer the property of said bankrupt so set apart, except so much as cannot be waived for the benefit of creditors holding waiver contracts.

2nd. To these exceptions of the creditor bankrupt duly filed a demurrer on the following grounds:

(a) That said exceptions are wholly insufficient in law to defeat the report of the trustee.

(b) That the exceptions made are not such as under the laws of Georgia will defeat the setting apart of the exemption, and furnish no reason why the trustee should not assign the exemption.

(c) That the Bankrupt Court has no jurisdiction over exempted property and no authority to administer the same.

(d) That there is no authority of law for the exceptions made, nor for the relief sought.

3 3rd. The referee, Hon. Shelby Myrick, overruled the aforesaid demurrer and directed the trustee to carve out of the said exemption of property a portion of the same amounting to $300.00, which was to be free from the claims of all creditors. The residue of the exempted property was to be sold and the proceeds held by the trustee for the benefit of creditors holding waiver notes. The bankrupt was ordered to yield possession to the trustee for the purpose of carrying out this order. The referee, at the request of bankrupt, certified the record in said case, together with his decision thereon, to the Honorable Emory Speer, Judge of the District Court of said District, for final determination.

4th. On the 30th of March, 1901, said case came on regularly to be tried before said District Judge, and after hearing argument of counsel, his Honor Judge Emory Speer, held and decided and adjudged that the aforesaid exceptions to the determinations and report of the trustee be sustained, and that the exemptions set apart by the trusee in his said report be denied and refused to the said bankrupt, save and except the item of household furniture and wearing apparel, and that the said bankrupt was not entitled to an exemption as claimed by him by reason of having waived and renounced in writing his

rights thereto in accordance with the constitution and laws of the State of Georgia. This judgment and decision of the District Court is the one complained of, and which is sought to be revised and corrected. Petitioner then excepted to said decision and decree and now excepts to the same, and says that the same was error, and says that the Court erred in not sustaining his demurrer to creditor's objection upon all the grounds therein stated, and in holding and deciding that the Bankrupt Court had jurisdiction over exempted property and authority to administer the same, and in refusing and denying the bankrupt his homestead exemption.

5th. Petitioner attaches hereto and makes a part of his petition certified copies of the following records of the
4 District Court:

(a) Report of the trustee setting aside the homestead.

(b) Creditors' exceptions to said report.

(c) Bankrupt's demurrer to said exceptions.

(d) Decision of Referee Shelby Myrick and his order certifying said case to the District Court.

(e) The decision and decree of Judge Speer.

(f) Schedule A-3 of said bankrupt's petition showing list of unsecured creditors.

The aforesaid records will exhibit the manner in which the question arose and its determination.

6th. Although the Exchange Bank of Fort Valley does not appear in the list of unsecured creditors, it was the owner of the claim to the Houston Guano & Warehouse Co., and as such was duly authorized to make proof of their claim, the same having been duly transferred to them.

7th. Wherefore petitioner brings this his petition for revision of the decisions complained of, and prays this Honorable Court to consider the same and to correct the errors complained of, and petitioner further prays that this Honorable Court, pending the hearing, will grant unto him a supersedeas suspending the judgment of the District Court under such terms as may be lawful, and will issue a rule nisi calling upon the Exchange Bank of Fort Valley, of the County of Houston, in said Southern District of Georgia, and F. T. Rape, trustee, of Macon County, in said district, calling upon them to answer this petition by the ..... day of ....., 1901, and show cause why the prayers of petitioner should not be granted.

Petitioner has already given due notice to the attorneys for the Exchange Bank of Fort Valley, and F. T. Rape, trustee, of his intentions to present this petition to this Honorable Court within ten days from this date.

And may it please the Court to grant such other and further order and decree as may seem lawful and proper in the premises.

ALLEN FORT & J. W. HAYGOOD,
Attys. for J. W. Lockwood.

5 In the Circuit Court of Appeals for the Fifth Circuit of the United States.

Joel W. Lockwood, Bankrupt,
vs.
The Exchange Bank of Fort Valley, and F. T. Rape, Trustee.

Petition for Revision of Decision of District Court in Bankruptcy, in Southern District of Georgia.

I, F. T. Rape, trustee of Joel W. Lockwood, bankrupt, do hereby acknowledge service of the above petition and waive copy and other and further notice and service of application for order of revision and of such order as may be passed in said case.

F. T. RAPE,
Trustee of Joel W. Lockwood, Bankrupt.

April 16, 1901.

6 United States of America,
Western Division,
Southern District of Georgia. ss.

In Re Joel W. Lockwood, Bankrupt. In Bankruptcy.

I, L. M. Erwin, Deputy Clerk of the District Court of the United States of America, for the Southern District of Georgia, do hereby certify that the writings annexed to this certificate are true copies of their respective originals now on file, and remaining on record in my office, to-wit: Trustees' report setting aside homestead exemption; exceptions to report of trustee setting aside exemption; demurrer to exceptions; order of referee sustaining exceptions and certificate to Judge; schdule "A-3" list of unsecured creditors; judgment of Court sustaining exceptions to report of trustee setting aside homestead exemption in the matter of Joel W. Lockwood, Bankrupt.

In witness whereof I have caused the seal of the said Court to be hereunto affixed, at the City of Macon, in the Southern District of Georgia, this 11th day of April, in the year of our Lord one thousand nine hundred and one, and of the Independence of the United States the one hundred and twenty-fifth.

[L. S. of the Court] L. M. ERWIN, Deputy Clerk.

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7 TRUSTEE'S REPORT OF EXEMPTED PROPERTY.

In the District Court of the United States, Western Division of the Southern District of Georgia.

In the Matter of Joel W. Lockwood, Bankrupt.
In Bankruptcy.

At Montezuma, Ga., on the 16th day of Dec., 1900.

The following is a schedule of property designated and set apart to be retained by the bankrupt aforesaid as his own property, under the provisions of the acts of Congress relative to bankruptcy.

| General head | Particular Description |
|---|---|
| Property exempted by State laws. | |

The equity of redemption in all of lot of land No. 85, also 100 acres off of lot of land No. 108 in the second land district of Macon County, valued at $550. Also the equity of redemption in a certain engine, boiler, gin, feeder and condenser valued at $150. Household furniture and wearing apparel valued at $25. One mule named Kate valued at $20.

FRANKLIN T. RAPE, Trustee.

(Indorsement:) No. 198. In the District Court of the United States, Western Division of the Southern District of Georgia. In Bankruptcy. In the matter of Joel W. Lockwood, Bankrupt. Trustee's report on exempted property. Filed in office this 25th day of January, 1901, 10 A. M. L. M. Erwin, Deputy Clerk. Before Shelby Myrick, Referee in Bankruptcy, headquarters at Americus, Georgia.

8 EXCEPTIONS TO TRUSTEE'S ASSIGNMENT OF HOMESTEAD AND EXEMPTION.

In the District Court of the United States for the Western Division of the Southern District of Georgia.

In the Matter of J. W. Lockwood, Bankrupt.
In Bankruptcy.

And now comes the Exchange Bank of Fort Valley, Ga., who is a creditor of said bankrupt, and who has duly proven his debt in bankruptcy, and files his exceptions to the schedule of property designated and set apart to be retained by him, J. W. Lockwood, bankrupt, as his own property, as his homestead and exemption, and for cause of exception says:

(1.)

That petitioner holds a contract against said bankrupt, in which said bankrupt specially waived and renounced all right to the homestead and exemption allowed by the laws of Georgia or the United States. Said waiver being stated in a certain note, constituting the said contract of indebedness, and being made in accordance with the provisions of the constitution and laws of said state, authorizing and empowering the debtor to waive and renounce in writing his right to the benefit of the exemption provided for by the constitution and laws of said state.

(2.)

That petitioner's said indebtedness is unsecured, save and except so far as a waiver of homestead and exemption may be construed as a security. Said note containing said waiver will be shown to the Court.

(3.)

That F. T. Rape the duly appointed trustee of the estate of said bankrupt, has set apart all the property of said bankrupt as his homestead to be the separate property of said bankrupt and has reported the items and estimated value thereof to the Court, to which report reference is hereby made.

(4.)

Under the laws of Georgia a debtor's exemption cannot be subjected to the payment of a debt containing a waiver of homestead, except by first putting said debt in judg-
9 ment and afterwards causing the execution issued thereon to be levied on the exempt property in accordance with the provisions of sections 2850, et seq., of the revised

code of this state. If this Court should approve said trustee's assignment in this case without reserving to petitioner the right to sue his claim and put same in judgment and without itself giving judgment for said debt, your petitioner would be left without means of enforcing their rights created and arising out of the aforesaid waivers of exemption by said bankrupt debtor and will be without remedy.

(5.)

Wherefore your petitioner being without remedy at common law pray that this Honorable Court may grant petitioner such relief as can be afforded and administered in a Court of Equity, and if need be to frame such remedy as will protect the rights of petitioner.

That the approval of said assignment be denied and that said trustee be required to take charge of and administer the property of said bankrupt so set apart, except alone such parts thereof as cannot be waived for the benefit of creditors holding waiver debts, or rather contracts of indebtedness containing a waiver of homestead in writing.

GREER & FELTON, Petitioner's Attorneys.

(Indorsement:) In the District Court of the United States for the Western Division, Southern District of Georgia. In re J. W. Lockwood, Bankrupt. Exceptions to report of trustee setting apart exemption. Greer and Felton, Attys. Due and legal service acknowledged. Further service, time of filing waived. This Jan. 1st, 1900. J. M. Haygood, Allen Fort, Atty. for Bankrupt.

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10 DEMURRER TO EXCEPTION BY BANKRUPT.

In the District Court of the United States for the Southern District of Georgia, Western Division.

In re Joel W. Lockwood, Bankrupt.

Exceptions to Assignment of Homestead and Exemption.
In re Joel W. Lockwood, Bankrupt.

And now comes J. W. Lockwood, Bankrupt, who by protestation not confessing the allegations in said exceptions contained, and demurs to said exceptions and prays same may [be] disallowed and stricken and for cause of demurrer says: 1st. That said exceptions are wholly insufficient in law to defeat the

report of the trustee. 2nd. That the exceptions made are not such as under the laws of Georgia will defeat the setting apart of the exemption and furnish no reason why the trustee should not assign the exemption.

3rd. That the Bankrupt Court has no jurisdiction over exempted property and no authority to administer the same.

4th. That there is no authority of law for the exceptions made and for the relief sought.

Wherefore bankrupt prays that this his demurrer may be considered and his grounds enquired of and that the same may be sustained and the exceptions stricken.

ALLEN FORT,
J. M. HAYGOOD, Attys. for Bankrupt.

I certify that this demurrer is not filed for delay and that in my opinion is well founded in law. ALLEN FORT.
Americus, Ga., Jan. 7, 1901.

Overruled by: Shelby Myrick,
Referee in Bankruptcy.
Savannah, Ga., Jan. 7th, 1901.

11 At the request of counsel for the bankrupt the question of law waived by the foregoing exceptions to the report of the trustee setting aside to the bankrupt all of the estate as exempt, and the demurrer to said exceptions is hereby certified to the Judge of the Court for final determination under the provisions of rule 17 of the general orders in bankruptcy of the Supreme Court of the United States.

SHELBY MYRICK, Referee in Bankruptcy.
Savannah, Ga., Jan. 7, 1901.

(Indorsement:) In the District Court of the United States for the Southern District of Georgia. In re J. W. Lockwood, Bankrupt. Demurrer to exceptions to homestead. Fort, Haygood.

12 In the District Court of the United States, Western Division, Southern District of Georgia.

In the Matter of Joel W. Lockwood, Bankrupt.
In Bankruptcy.

Exceptions Filed to the Report of the Trustee in Setting Aside to the Bankrupt all of the Assets Returned by Him as a Homestead.

At Montezuma, Ga., in said District, on the 10th day of January, 1901, before Shelby Myrick, Referee in Bankruptcy.

It is ordered by the Court, that F. T. Rape, trustee in bankruptcy, carve out of the property set apart as a homestead exemption to the bankrupt, free from the claims of general creditors, a portion of the said property of the value of three hundred dollars, which shall be set apart as a homestead to be free from the claims of all creditors of said bankrupt, including such creditors as hold general waivers of homestead. That upon the balance of the estate of the said bankrupt set apart to him by the said trustee as a homestead exemption, a specific lien is hereby created, in favor of all of the creditors of the said bankrupt, who hold under their contracts of indebtedness general waivers of homestead, and who have duly proven their claims in bankruptcy.

It is further ordered by the Court and decreed, that of the other portion of the property of said bankrupt, heretofore set apart to him in the 1600.00 exemption, shall be dealt with by the said trustee precisely as if it did not constitute a part of the homestead exemption, except that a separate account shall be kept of the proceeds of said portion, and that the same shall constitute a special fund for distribution to creditors holding general waivers of homestead from the bankrupt, and that the said creditors holding general waivers of homestead, must first resort to the fund thus arising out of the homstead
13 exemption, for the payment of their claims before sharing in the general fund of the bankrupt, should such general fund arise over and above the fund arising from the homestead exemption. Provided, however, that should the bankrupt, or any one for him pay off the claims of such creditors as hold general waivers of homestead, within thirty days from this date, the entire $1600.00 homestead heretofore set apart to said bankrupt shall stand and be approved as the exemption of said bankrupt.

It is further ordered that the said trustee hold possession of

the entire homestead until the expiration of the thirty days from this date, and at the expiration of the said thirty days shall convert the same into money as soon as it may be done without detriment to the best interets to the estate. It is further ordered and adjudged that the bankrupt shall yield possession to the trustee of the homestead heretofore set apart to him over and above the aforesaid $300.00, on demand by the said trustee.

SHELBY MYRICK, Referee in Bankruptcy.

Savannah, Ga., Jan. 7th, 1901.

At the request of counsel for the bankrupt the above question is certified to the Judge of said Court for final determination. SHELBY MYRICK, Referee.

Savannah, Ga., Jan. 7th, 1901.

(Indorsement:) No. 198. In the District Court of the United States, Western Division of the Southern District of Georgia. In Bankruptcy. In the matter of Joel W. Lockwood, Bankrupt. Order sustaining exceptions filed to trustee's report setting aside homestead. Question certified to Judge. Filed in office this 25th day of January, 1901. L. M. Erwin, Deputy Clerk. Before Shelby Myrick, Referee in Bankruptcy, headquarters at Americus, Ga.

14 SCHEDULE A-3. CREDITORS WHOSE CLAIMS ARE UNSECURED.

| Names of Creditors | Residence (If unknown, that fact must be stated.) | When and Where Contracted. | Nature and Consideration of the Debt, and whether any Judgment, Bond, Bill of Exchange, Promissory Note, etc., and whether Contracted as Partner or Joint Contractor with any other Person; and if so, with whom? | Amount. |
|---|---|---|---|---|
| John F. Lewis & Son | Montezuma, Ga. | 1899 Montezuma, Ga. | Borrowed money at usurious interest; P. G. Sheppard is security on said note | $ 407.00 |
| John F. Lewis & Son | Montezuma, Ga. | 1896-7 Montezuma, Ga. | Account for merchandise | 200.00 |
| J. E. De Vaughn | Montezuma, Ga. | 1900 Montezuma, Ga. | Account for merchandise | 20.00 |
| D. P. Coogle | Oglethorpe, Ga. | 1900 Oglethorpe, Ga. | Account for merchandise | 100.00 |
| F. A. Hooper Sol. Genl. | Americus, Ga. | 1900 Oglethorpe, Ga. | Security on appearance bond of Mrs. Miller | 50.00 |
| Russell & Poole | Reynolds, Ga. | 1896-7 Reynolds, Ga. | Acct. for merchandise | 80.00 |
| R. A. Scoudrett | Macon, Ga. | 1898 Macon, Ga. | Note for sawmill—balance due | 51.76 |
| Wilson | Butler, Ga. | 1897 Butler, Ga. | Note for patent right for bridle bit. In judgment disputed | 200.00 |
| D. G. Barfield | Ashburn, Ga. | 1899 Garden Valley, Ga. | Note for balance rent-claim, disputed | 18.00 |
| G. W. L. Watkins | Garden Valley, Ga. | 1896-7-8 Garden Valley, Ga. | Acct. for merchandise | 100.00 |
| O. H. Miller | Fort Valley, Ga. | 1899 Garden Valley, Ga. | Acct. for furniture | 20.00 |
| Dr. John B. Childs | Garden Valley, Ga. | 1900 Garden Valley, Ga. | Acct. for medical services | 50.00 |
| Houston Guano & Warehouse Co. | Fort Valley, Ga. | 1896-7 Montezuma, Ga. | Notes for fertilizers, disputed | 160.00 |
| Louis Lippman | Montezuma, Ga. | 1897 Montezuma, Ga. | Notes for merchandise. In judgment | 80.00 |
| | | | Total | $1536.76 |

N. B.—When the name and residence (or either) of any drawer, maker, indorser, or holder of any bill or note, etc., are unknown, the fact must be stated, and also the name and residence of the last holder known to the debtor. The debt due to each creditor must be stated in full, and any claim by way of set-off stated in the schedule of property.

J. W. LOCKWOOD, Debtor in Bankruptcy.

[Indorsed:] No. 198. In the District Court of the United States for the Western Division, Southern District of Georgia. In Bankruptcy. In the matter of Joel W. Lockwood, Bankrupt. Schedule A-3. Creditors whose claims are unsecured. Filed 10 o'clock A. M., this 7th day of November, 1900. L. M. Erwin, Deputy Clerk. John Haygood, Allen Fort, Attorneys.

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15 In the District Court of the United States for the Western Division of the Southern District of Georgia.

In the Matter of Joel W. Lockwood, Bankrupt.
In Bankruptcy.

The Exchange Bank of Fort Valley, Georgia, a creditor of said bankrupt, having duly taken exceptions to the determination and report of the trustee setting off an exemption to the said bankrupt, within twenty days after the filing of said report, and the referee having certified the said exceptions and the demurrer thereto, to the Court for final determination at the request of the bankrupt, and the said exceptions coming on to be heard and determined by the Court, and it being shown to the Court and not contested that the bankrupt waived and renounced in writing all his right to an exemption under the Homestead and Exemption Laws of the State of Georgia, and the said exceptions and the demurrer thereto having been argued by counsel for both parties, it is thereupon considered, ordered and adjudged by the Court that the said exceptions to the determination and report of the trustee be sustained, and that the exemption set apart by the trustee in his said report be denied and refused to the said bankrupt, save and except the item of household furniture and wearing apparel, and that the said bankrupt is not entitled to an exemption as claimed by him, by reason of having waived and renounced in writing his right thereto, in accordance with the constitution and laws of the State of Georgia.

In open Court, this 30th day of March, 1901.

EMORY SPEER, Judge.

(Indorsement:) No. 198. U. S. District Court, Western Division, Southern District of Georgia. In the matter of Joel W. Lockwood, Bankrupt. Judgment. Sustaining exceptions to report of trustee setting apart exemption and denying exemption to homestead set apart. Filed 2 P. M. o'clock, March 30th, 1901. L. M. Erwin, Deputy Clerk.

In Circuit Court of Appeals, Fifth Circuit.

J. W. Lockwood, Bankrupt,
vs.
The Exchange Bank of Fort Valley, and F. T. Rape, Trustee.

Petition for Revision of District Court for Southern District of Georgia. In Bankruptcy.

We acknowledge due and legal service of a copy of the within petition and of notice of an intention to apply within ten days for an order hereon and supersedeas as prayed for.

GREER & FELTON,
HALL & WIMBERLY,
Attorneys for Exchange Bank of Ft. Valley.

April 16th, 1901.

[Indorsement:] U. S. District Court, Western Division, Southern District of Georgia. In the Matter of Joel W. Lockwood, Bankrupt. In Bankruptcy. Certified copies of certain papers contained in said record.

# SUPREME COURT OF THE UNITED STATES

## OCTOBER TERM, 1902.

No. 226.

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JOEL W. LOCKWOOD, PETITIONER,

*vs.*

EXCHANGE BANK OF FORT VALLEY ET AL.

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## EXTRACTS FROM RETURN TO WRIT OF CERTIORARI.

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United States Circuit Court of Appeals, Fifth Circuit, November Term, 1900.

APRIL 23, 1901.

(Extract from Minutes.)

| | |
|---|---|
| *In re* JOEL W. LOCKWOOD, Bankrupt, *vs.* THE EXCHANGE BANK OF FORT Valley and F. T. Rape, Trustee. | No. 1052. On Petition of Joel W. Lockwood, Bankrupt, for Review of the Decision of the District Court of the United States for the Southern District of Georgia. |

In bankruptcy.

The petition herein being a petition for revision in the matter of law of a decision and decree made by the district court of the United States for the southern district of Georgia, presented in open court at New Orleans, LA.

It is ordered that the same be filed in the clerk's office of the United States circuit court of appeals for the fifth circuit, and the petition be docketed for hearing at the present term, and that notice of this order be given to The Exchange Bank of Fort Valley,

Georgia, and to F. T. Rape, trustee, in Montezuma, Ga., the defendants in said petition, by the service on them of a copy of this order, and that the petition be placed upon the calendar and notice thereof be given the parties. and that all further proceedings under said judgment and decree sought to be revised be stayed until the further order of said court of appeals or a judge thereof.

April 23, 1901.

November Term, 1900.

MAY 27, 1901.

(Extract from Minutes.)

JOEL W. LOCKWOOD
*v.*
EXCHANGE BANK OF FORT VALLEY. } No. 1052.

This cause was regularly called this day and submitted to the court after argument by Mr. Allen Fort for petitioner and by Mr. John I. Hall for respondent.

November Term, 1901.

DEC. 10, 1901.

(Extract from Minutes.)

In the Matter of JOEL W. LOCKWOOD, Bankrupt,
*vs.*
EXCHANGE BANK OF FORT VALLEY and F. T. RAPE, Trustee. } No. 1052.

This cause came on to be heard on the transcript of the record from the district court of the United States for the southern district of Georgia, and was argued by counsel.

Whereupon, the court desiring the instruction of the honorable, the Supreme Court of the United States for the proper decision of the matters pending in this cause, orders that the following two questions and propositions of law be certified to the said Supreme Court in accordance with the provisions of sec. 6 of the act entitled: "An act to establish circuit courts of appeal and to define and regulate in certain cases the jurisdiction of the circuit courts of the United States and for other purposes," approved March 3, 1891, to-wit:

1st. Under the bankruptcy act of 1898 does the title to the property of the bankrupt which is exempt from seizure and sale by execution under the laws of the State of the bankrupt's residence and domicile, and which property is claimed by the bankrupt as so exempt, vest in the trustee of the bankrupt's estate for purposes of administration and distribution in favor of lien holders, or holders of waiver notes?

2nd. Has the United States district court, sitting in bankruptcy in the State of Georgia, jurisdiction to administer the property of an adjudicated bankrupt which is exempt under the laws of the State, and which is claimed by the bankrupt in favor of a creditor who proves his debt as an unsecured claim, and who holds and proves a note of the bankrupt in which the bankrupt specially waives all right to the homestead and exemption allowed by the laws of the State of Georgia.

And it is further ordered that a printed copy of the transcript of the record in the above styled and numbered cause, properly identified by the clerk of this court, be transmitted with the certificate herein.

Dec. 10, 1901.